

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 11/14/2013
TIME: 4:00 p.m. (12 min.)

Moroughan v. County of Suffolk, et al.
CV 12-512 (JFB) (AKT)

TYPE OF CONFERENCE: **STATUS CONFERENCE RE: DEPOSITION**

APPEARANCES: Plaintiff Anthony Grandinette

Defendant Megan O'Donnell (Suffolk County Defendants)

Michael J. Ferguson (Nassau County Defendants, except
Anthony DiLeonardo)

Amy Marion (Anthony DiLeonardo)- **NO APPEARANCE**

FTR: 4:13-4:25

THE FOLLOWING RULINGS WERE MADE:

Counsel requested an emergency conference today to deal with an issue which had arisen concerning the deposition of Detective Lester. Attorney Grandinette stated that the deposition of Detective Lester commenced at 10:30 a.m. yesterday morning. He noted that he had arrived early to pre-mark some exhibits. An hour of recess was taken for lunch, and at approximately 5:05 p.m., the question was apparently raised by counsel for the Nassau County defendants as to how much more time Attorney Grandinette intended to take with the witness. After some discussion, the deposition apparently did not resume. Counsel for the Suffolk County Defendants requested that she not be required to produce Detective Lester again. Attorney Grandinette referred to the presumptive limit of seven hours for a deposition and wishes to depose the witness for an additional 1.5 hours to which he believes he is entitled.. Attorney O'Donnell acknowledged the court reporter and Mr. Grandinette arrived early and that Mr. Grandinette was marking exhibits. The witness was present at 10 a.m. and the deposition commenced at approximately 10:30 a.m. Attorney O'Donnell argues that a substantial period of time was taken up by Attorney Grandinette's reading sections of various documents. She believes that Mr. Grandinette had a full and fair opportunity to depose Detective Lester. The parties discussed this issue but were unable to reach a resolution.

The Federal Rules provide all counsel with a presumption of 7 hours to depose a witness. According to the Court's calculations, Attorney Grandinette deposed Detective Lester for approximately 5.5 hours. Therefore, notwithstanding the events at 5:05 p.m. yesterday, I find that counsel is entitled to depose the witness for an additional 1.5 hours. The parties are directed to arrange a mutually agreeable time to conclude the deposition. Counsel for the Nassau County defendants wished to clarify what happened at the end of the day yesterday and that information is now in the record. The Court further finds that notwithstanding the fatigue factor for everyone involved, it would have been helpful if all counsel had communicated more effectively so that what should have been an uncomplicated issue might have been more readily resolved.

Attorney Ferguson today also requested a Court conference to address several issues that have recently arisen. The Court will set up a conference, but would first like to complete the written Orders which address the existing motions which are pending in this case. Those decisions will be rendered in the short term and the Court will set up a conference as part of those Orders.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge